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Paper 16  
9 May 2008

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,620

KING PHARMACEUTICALS RESEARCH & DEVELOPMENT, INC.  
(5,070,877),  
Junior Party,

v.

ITEM DEVELOPMENT AB  
(08/442,385),  
Senior Party.

Before: SCHAFER, LEE, and TORCZON, *Administrative Patent Judges*.

TORCZON, *Administrative Patent Judge*.

JUDGMENT  
Bd.R. 127  
REQUESTED

1       Senior party Item states that it expressly abandons its involved  
2 application (Paper 14). By operation of rule, express abandonment of an  
3 involved application is treated as a request for adverse judgment. 37 C.F.R.  
4 § 41.127(b)(1).

5       Accordingly, it is—

1           ORDERED that judgment be entered against senior party Item for  
2 count 1 (Paper 1 at 3);

3           FURTHER ORDERED that claims 56-59 of Item's involved  
4 application be FINALLY REFUSED, 35 U.S.C. 135(a); and

5           FURTHER ORDERED that a copy of this judgment be entered in the  
6 administrative records of the involved patent and application.

cc:

Thomas E. Friebel and Jennifer J. Chedda, Jones Day, New York City, New  
York for King Pharmaceuticals Research & Development, Inc.

John Scheibeler and Jean Shimotake, White & Case, New York City, New  
York for Item Development Aktiebolag